

**Minutes  
Bar Harbor Planning Board  
August 15, 2007**

*Members present: Kay Stevens-Rosa, Chair; Jennifer Booher, Vice-Chair; Sarah Stanley, Secretary; Kevin Cochary*

*Also present: Anne Krieg, Planning Director; Kris Hultgren, Staff Planner; Lee Bragg, Esq., Town Attorney*

**I. CALL TO ORDER — 5:38 p.m.**

**II. EXCUSED ABSENCES**

*Ms. Stanley made a motion to excuse Mr. Gurtler from the meeting. Mr. Cochary seconded and the Board voted unanimously on the agenda. The motion passed 4-0.*

**III. ADOPTION OF THE AGENDA**

*Mr. Cochary made a motion to adopt the agenda. Ms. Stanley seconded and the Board voted unanimously on the motion. The motion passed 4-0.*

**IV. APPROVAL OF MINUTES**

*Ms. Stanley made a motion to approve the minutes from the July 11, 2007 meeting. Ms. Booher seconded and the Board voted unanimously on the motion. The motion passed 4-0.*

**V. REGULAR BUSINESS**

**A. Continuation of a Public Hearing – SP-06-08 Cadillac Management Company, LLC**

**Project Location:** 322, 330, and 336 Main Street, Bar Harbor Tax Map 108, Lots 30, 38, 39, and 40

**Applicant:** Cadillac Management Company, LLC

**Application:** The application proposes to build an addition (approximately 9,700 SF) to the existing Cadillac Mountain Office Building, with accompanying changes to parking and pedestrian circulation.

Ms. Stevens-Rosa recused herself from the hearing.

Perry Moore, representing the applicant, summarized the new parking submission and the breakdown of the uses of the project.

Mr. Moore asked that the Board be specific about what could be fatal to the project so the applicant can have a full hearing on the issue.

Mr. Moore referred to the Maine Municipal Manual under the ordinance interpretation and consistency section to say that uses in the same district should have the same rules applied.

Mr. Moore asked the Board to make a finding on the parking submittal tonight.

Mike Ross, representing the applicant, expressed his discomfort with the Board's decision to apply a 4 per thousand parking standard for his client's project while applying a 2 per thousand standard for the Machias Bank project in the same zone.

Mr. Ross read a statement from his client asserting that the Planning Board violated sections article II and subsections C(6) of the Town Charter by not applying the Land Use Ordinance.

Lee Bragg, town attorney, explained his consistent position that the Board has the authority to look at the overall intended use of the building and apply a parking standard.

Ms. Krieg explained that the medical clinic is a separate use than professional office space and every project is its own application.

Ms. Krieg explained that it's important to get reassurance that the parking spaces dedicated to the use remain even if the land is conveyed in the future.

Mr. Cochary commented that he is trying to strike a balance with the project.

Mr. Moore reiterated to the Board that he would like them to rule on the specifics off the project so the applicant can move on.

Ms. Booher expressed her desire to treat the second floor at the 2 per thousand standard because it is clearly a professional office use.

Mr. Cochary asked for some clarification on the enforcement of the parking standard in relation to the square footage breakdown of the uses.

Mr. Ross commented that enforcement would be carried out like other projects in town.

Mr. Moore said the 25 spaces being discussed with the YMCA are hypothetical at this point and will not be part of any decision.

Ms. Krieg advised the applicant to apply for its MaineDOT permit as soon as possible.

Mary Dudzik, an abutter of the project, expressed her concern that there is still not enough parking because of the traffic in the neighborhood.

Mr. Patterson, speaking for Mr. Colket, questioned the math used to come up with the parking allocation. He also said his client is interested in preserving the tree buffer on lot #1.

Mr. Patterson reiterated his concern about the shared parking agreement in its current form.

Jacqueline Smith, speaking as neighbor, endorsed the comments of Mary Dudcik and agreed with Amanda Meader's April letter on tree credits and parking.

Mr. Moore disagreed with Mr. Patterson's comments about the math calculations of the parking agreement and disagreed that Ms. Meader's letter is still valid because the applicant has addressed its concerns.

Ms. Krieg suggested a Planning Board special meeting for this project.

The Board agreed to hold the special meeting on Wednesday, August 29.

Mr. Patterson withdrew his objection to Mr. Moore's parking calculation because he was mistaken.

***Mr. Cochary made a motion to hold a special session for this project on August 29. Ms. Stanley seconded and the Board voted unanimously on the project. The motion passed 3-0.***

**B. Public Hearing – SD-06-09 Joel Avila**

**Project Location:** 64 Piedmont Drive, Bar Harbor Tax Map 215, Lot 63

**Applicant:** Joel Avila

**Application:** Subdivide the existing 4.7 acre parcel into two lots.

Ms. Krieg gave an update of the project.

Ms. Krieg reminded the applicant of the shed that is in the side setback.

Ms. Stevens-Rosa opened the session to public comment.

There was no public comment.

***Ms. Stanley made a motion to close the public hearing. Ms. Booher seconded and the Board voted unanimously on the motion. The motion passed 4-0.***

***Ms. Booher made a motion to approve the application with the condition that the applicant move the shed out of the set back. Ms. Stanley seconded and the Board voted unanimously on the motion. The motion passed 4-0.***

**C. Public Hearing – SD-07-03 – Sabah Woods Subdivision**

**Project Location:** 112 Bay View Drive, Bar Harbor Tax Map 202, Lot 34

**Applicant:** Emily Sabah-Maren

**Application:** Proposal to create a 4 lot residential subdivision off of Route 3 on approximately 9 acres.

Mr. Musson, representing the applicant, gave a summary of the project.

Mr. Musson submitted an application for a MaineDOT curb-cut permit for the record.

Emile St. Germaine, an abutter, expressed some concern about the survey conducted on the property that showed one of Mr. St. Germaine's buildings and well on the applicant's property.

Mr. Krieg inquired with Mr. Bragg about the direction the Board should take when there is a boundary dispute. Mr. Bragg commented that the Board could condition approval on the dispute being worked out or the Board could keep the decision open until the dispute is settled.

Mr. Cochary expressed concern with approving the application without solving the boundary dispute.

The Board discussed the dispute and their options.

Emily Sabah Maren, the applicant, expressed her desire to settle the issue with Mr. St. Germaine.

Ms. Krieg confirmed with Mr. Bragg that the boundary dispute must be resolved before signature on the final site plan.

***Ms. Booher made a motion to approve the project with the condition that the two parties settle the boundary dispute before endorsement and the applicant provide the MaineDOT permit. Ms. Stanley seconded and the Board voted unanimously on the motion. The motion passed 4-0.***

**D. Public Hearing – SD-06-20 – Orchard Ridge**

**Project Location:** 45 Knox Rd, Bar Harbor Tax Map 227, Lot 46

**Applicant:** Shaw & Gott III, LLC

**Application:** Proposes to create a 10 lot residential subdivision off of Knox Road in Town Hill.

Ms. Stevens-Rosa recused herself from the proceeding.

Mr. Musson, representing the applicant, provided an update of the project.

Ms. Stanley expressed concern that lot 8 on the site plan does not have enough land for a building envelope. Mr. Musson demonstrated to the Board that there is enough space on the parcel for a building envelope.

Ms. Stanley asked the applicant about the wetland on lot 3 to determine if it less than 2 acres. Mr. Johnston, speaking for the applicant, expressed confidence that the wetland is less than 2 acres.

Mr. Cochary inquired about the road leading into lots 5 and 6 and whether it is conforming.

Ms. Krieg explained that it is within the Board's right to accept or reject the road leading into lots 5 and 6.

Michael Staggs, an abutter, expressed concerns about low groundwater levels in the area.

Elisa Hurley, an abutter, expressed concerns about lot 8 and whether there is enough room on the lot for a house. Ms. Hurley also expressed concern about the amount of groundwater in the area.

Jake Gayle, an abutter, expressed concerns about the groundwater and septic systems.

Beth Ingebritson, an abutter, expressed concerns about groundwater and stormwater runoff.

Dessa Dunsey, an abutter, expressed concerns about groundwater capacity in the area.

Jane Disney asked the Board to protect the watershed and protect the neighborhood from unchecked development.

Mr. Johnston, speaking for the applicant, gave an overview of the groundwater and stormwater analysis.

Ms. Krieg asked that the applicant provide proof that the wetland on lot 3 is less than 2 acres.

The Board discussed the road frontage leading into lots 5 and 6.

Mr. Cochary encouraged the applicant to look at the development again to address the concerns of the public.

Ms. Stanley said she is not inclined to provide a variance to increase the size of the development. Ms. Booher concurred with Ms. Stanley.

***Mr. Cochary made a motion to continue the public hearing to the September 5 meeting. Ms. Stanley seconded and the Board voted unanimously on the motion. The motion passed 3-0.***

**E. Completeness Review – SP-07-03 – Kingdom Hall**

**Project Location:** State Highway 3, Bar Harbor Tax Map 212, Lot 60

**Applicant:** Bar Harbor Congregation of Jehovah's Witnesses

**Application:** Proposes to construct a 3,696 SF place of worship.

***Ms. Booher made a motion to move Kingdom Hall up on the agenda. Ms. Stanley seconded. Mr. Cochary expressed concern about not following the regular process.***

***The Board voted 3-1 to adjust the agenda with Mr. Cochary voting nay. The motion passed 3-1.***

Kevin Kane, representing the applicant, explained the project.

The applicant added to its application by submitting a traffic report and a lighting report.

The applicant submitted a letter that showed the lot was created before 1986.

Ms. Stevens-Rosa said the applicant will have to receive certification from the fire marshal and an architect's seal.

The Board discussed whether to waive the test well pit requirement. The Board was satisfied with the estimates of nearby wells.

The Board asked that the applicant provide the wetland setback on any final site plan.

The Board did not grant the waiver for submitting photos.

The Board agreed to a site visit and Ms. Krieg asked the applicant to flag the appropriate places.

***Ms. Booher made a motion to accept the following waivers: 4, 5, 6, 7, 7.1, 9, 10, 12, 19, 20, 26. Ms. Stanley seconded and the Board voted unanimously on the waivers. The motion passed 4-0.***

Ms. Krieg asked the applicant to submit the additional information requested by the Board by August 30 to get on the September 19 Planning Board agenda for a public hearing. The additional information includes aerial photos, an enhanced landscaping plan, and an application to MaineDOT for curb-cut permit.

***Ms. Booher made a motion to find the application complete pending the receipt of a landscaping plan and aerial photos. Ms. Stanley seconded and the Board voted unanimously on the motion. The motion passed 4-0.***

**F. Sketch Plan Review – PUD-07-01 – Hamilton Station**

**Project Location:** 831 State Highway 3, Bar Harbor Tax Map 202, Lot 33

**Applicant:** Hamilton Station, LLC; Shaw & Gott, LLC

**Application:** Proposal of a Planned Unit Development to place 65 units/lots with a commercial component on 42 acres.

Noel Musson, speaking for the applicant, updated the Board on progress on the waiver requests.

The site visit was cancelled for August 22 so the applicant can properly flag the site.

The Board discussed the site visit and the neighborhood meeting with the applicant.

Ms. Krieg explained the plan for the design charette at the neighborhood meeting.

John Kelly, speaking as a citizen of Bar Harbor, expressed concern that the sketch plan in its current form is not complete and as a result a neighborhood meeting cannot be held. The specific parts of the sketch plan that were mentioned include data on existing covenants, available community facilities and a cost estimate.

Mr. Kelly also expressed concern that the updated waiver requests were not submitted on time because 15 days were not provided for review of submissions per §125-72 (C).

Pat Ward-Bailey, resident of Bay View Drive, claimed two rights-of-way have been ignored by the applicant that are outlined in her deed.

Mr. Kelly requested that the Planning Board conduct outside technical analysis of the project.

Greg Johnston, speaking for the applicant, defended the applicant's timeliness of submittal of the sketch plan.

Steve Chorover, speaking as a resident of Bay View Drive, spoke about the potential harm to the town if requested waivers are granted arbitrarily.

Mr. Musson said it is difficult to put a cost on the project because at this point they don't know what it will consist of.

Ruth Csear, speaking as a resident of Bay View Drive, reiterated that certain requirements are needed before the sketch plan is complete.

Mr. Cochary asked the applicant to provide a more detailed outline of covenants and right-of-ways, community facilities and costs.

Jane Disney spoke about her concerns regarding the impact of development on the watershed.

Ms. Disney commented that she doesn't believe the developer is willing to listen to the neighbors during a collaborative process.

Ms. Krieg directed the applicant to submit new materials for the sketch plan requested by the Planning Board no later than August 21.

***Mr. Cochary made a motion to continue the sketch plan to the September 5 meeting. Ms. Stanley seconded and the Board voted unanimously on the motion. The motion passed 4-0.***

## **VI. OTHER BUSINESS**

None

**VII. PLANNING DIRECTOR'S REPORT – No Report**

**VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA - None**

**IX. ADJOURNMENT – 10:01 PM**

*Ms. Booher made a motion to adjourn, Ms. Stanley seconded and the Board voted unanimously on the motion. The motion passed 4-0.*

*Signed as approved:*

---

Kay Stevens-Rosa, Chair  
Planning Board, Town of Bar Harbor

Dated